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Before the
Federal Communications Commission
Washington, D.C. 20554

DISPATCHED

In the Matter of)

PUERTO RICO TELEPHONE COMPANY)

WT Docket No. 96-162

Request for Temporary Waiver of the)
Commission's Rules to Establish Competitive)
Service Safeguards for Local Exchange Carrier)
Provision of Commercial Mobile Radio Services)

ORDER

Adopted: April 10, 1998

Released: April 10, 1998

By the Acting Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. On March 31, 1998, Puerto Rico Telephone Company ("PRTC") filed a Supplemental Petition for Temporary Waiver ("Supplemental Petition") requesting a sixty-day extension of the temporary waiver of section 20.20(a) granted to PRTC on February 10, 1998.¹ Section 20.20(a) of the Commission's rules, which went into effect on February 11, 1998, requires that incumbent local exchange carriers establish a separate affiliate for provision of in-region broadband Commercial Mobile Radio Service ("CMRS").² For the reasons discussed below, we hereby grant PRTC an additional sixty (60) day extension to establish a separate affiliate for the provision of in-region broadband CMRS.

2. In the waiver petition filed on January 16, 1998 (January 16 Petition), PRTC stated that, although it had begun the process of complying with section 20.20(a) by restructuring its operations to create a separate affiliate, it was awaiting a private letter ruling from the IRS on the federal tax consequences of its proposed restructuring plan before making it effective.³ Because the Puerto Rico Federal Relations Act generally exempts Puerto Rican corporations from complying with federal tax laws, PRTC stated that such reorganization will have significant federal tax consequences.⁴ PRTC also stated

¹ See In the Matter of Puerto Rico Telephone Company, *Order*, WT Docket No. 96-162, DA 98-251 (rel. Feb. 10, 1998) (*Feb. 10 Order*).

² 47 C.F.R. § 20.20(a). See Section 20.20 was adopted in *Amendment to the Commission's Rules to Establish Competitive Service Safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Services*, WT Docket No. 96-162, *Report and Order*, 12 FCC Rcd 15668 (1997) (*Report and Order*).

³ January 16 Petition at 2. PRTC requested a private letter ruling from the IRS on the federal tax consequences of a restructuring plan being considered by PRTC on November 3, 1997. After consultation with the IRS Staff, PRTC filed an amended request on December 24, 1997. *Id.* at 3-4.

⁴ 48 U.S.C. § 734.

that it did not expect to receive a final ruling from the IRS before the February 11 effective date of Section 20.20(a).⁵ PRTC thus requested a temporary waiver of section 20.20(a) until sixty days after the IRS issues a final ruling on its request.⁶

3. In our *Feb. 10 Order*, we determined that because PRTC had shown reasonable diligence in seeking IRS guidance on the tax consequences of its restructuring, but had not yet received an IRS ruling on its request, we would grant PRTC sixty (60) days from February 11, 1998 to establish a separate affiliate for provision of in-region broadband CMRS.⁷ We also stated that if the IRS had not ruled on PRTC's request in that time frame, PRTC could file a supplemental waiver request.⁸ We also required PRTC to inform the Commission of any further response it receives from the IRS to its private letter ruling request.⁹ In addition, we stated that PRTC is still required to comply with the other requirements of section 20.20, including the requirement that it must not discriminate against other CMRS providers in the provision of interconnection or otherwise cross-subsidize its provision of CMRS.¹⁰

4. PRTC's current waiver expires on April 12, 1998. In its Supplemental Petition, PRTC states that it has not yet received a ruling from the IRS and thus requests an additional sixty days from April 12, 1998, to establish a separate affiliate for the provision of broadband CMRS.¹¹ We find that PRTC has shown good cause for it to be granted an extension of its waiver. Therefore, we grant PRTC an additional sixty (60) days from April 12, 1998 to establish a separate affiliate for provision of in-region broadband CMRS.

⁵ January 16 Petition at 4-5.

⁶ *Id.* at 4-5, 9.

⁷ *Feb. 10 Order* at 2.

⁸ *Id.*

⁹ *Id.* We note that, on April 3, 1998, PRTC notified us that the IRS had, by letter dated March 31, 1998, informed PRTC that it expected to complete an initial review of the matter before it within a few weeks. However, the IRS letter did not state when a ruling would be issued. See Letter to Steven Weingarten, Acting Chief, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Joe D. Edge, Counsel for PRTC, filed on April 3, 1998.

¹⁰ *Feb. 10 Order* at 2.

¹¹ Supplemental Petition at 2.

5. Accordingly, IT IS ORDERED, that, pursuant to sections 4(i) of the Communications Act of 1934, as amended, 47 U.S.C §§ 154(i), authority delegated by section 0.331 of the Commission's rules, 47 C.F.R § 0.331, and pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, the Supplemental Petition for Temporary Waiver filed by Puerto Rico Telephone Company, on March 31, 1998, IS GRANTED, to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Steven E. Weingarten
Acting Chief, Commercial Wireless Division
Wireless Telecommunications Bureau